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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,826	12/06/2005	Yasuhiko Otsubo	960/197	3639
23838 7590 12/29/2006 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			EXAMINER NGUYEN, TU MINH	
			ART UNIT 3748	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	12/29/2006	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/559,826		OTSUBO ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Tu M. Nguyen		3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. An Applicant's Amendment filed on November 14, 2006 has been entered. Claims 3, 4, and 9 have been canceled; and claims 1, 7, and 11 have been amended. Overall, claims 1, 2, 5-8, 10, and 11 are pending in this application.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima et al. (U.S. Patent 6,851,258) in view of Tashiro et al. (U.S. Patent 6,622,480) and Schaller et al. (U.S. Patent 6,948,311).

Re claims 1, 7, and 11, as shown in Figures 1, 4, 5, and 8-11, Kawashima et al. disclose an exhaust purifying apparatus and an exhaust gas purifying method for an internal combustion engine, the apparatus comprising:

- an estimation unit (see Figure 8) that estimates an accumulation amount of particulate matter trapped about a catalyst (41) in an exhaust system based on a pressure loss across the catalyst, and

- a control unit (31),

wherein, when the pressure loss is equal to or more than a permissible value (step S13 with YES answer), the control unit executes PM elimination control (step S15) for supplying unburned fuel component to the catalyst to increase the temperature of the catalyst and burning the trapped particulate matter (see lines 52-62 of column 13), and

wherein, when execution of the PM elimination control becomes possible (step S41 with NO answer, step S45 with YES answer, and step S46) after suspension of the control (step 42 with YES answer, step S43 with NO answer, and step S44), the control unit resumes the PM elimination control even if the accumulation amount of particulate matter about the catalyst is less than the permissible value (see Figures 5, 9, and 10 and line 23 of column 9 to line 67 of column 10).

Kawashima et al., however, fail to disclose that instead of the pressure loss, the accumulation amount is used to initiate PM elimination control; that the estimated accumulation amount is set to zero at the completion of the PM elimination control; and that at a final stage of the PM elimination control when the estimated accumulation amount is slightly more than zero, the apparatus executes burn-up control, in which performance and stopping of concentrated intermittent fuel addition to a section of the exhaust system that is upstream of the catalyst are repeated a predetermined number of times.

As shown in Figures 1 and 8, Tashiro et al. disclose a method to control the regeneration of a particulate filter (4). As depicted as step S21 in Figure 8, Tashiro et al. teach that it is conventional in the art to estimate an accumulation amount (PMs) of particulate matter in the filter and when PMs is greater than or equal to a threshold value (PMmax), a PM elimination

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control is initiated. Also in step S36, Tashiro et al. also teach that the estimated accumulation amount is set to zero at the completion of the PM elimination control. It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Tashiro et al. in the apparatus and method of Kawashima et al., since the use thereof would have been routinely practiced by those with ordinary skill in the art to control a regeneration step of a particulate filter.

As shown in Figure 1, Schaller et al. disclose a method to control the regeneration of a particulate filter (115b). As illustrated in Figure 3, Schaller et al. teach that it is conventional in the art to intermittently inject a fuel into an exhaust stream ahead of the filter at a final stage (third phase) of a particulate matter elimination control when an accumulation amount of particulate matter in the filter is slightly more than zero in order to maintain the filter at a desired temperature range (also see the Abstract and claims 1 and 4). It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Schaller et al. in the apparatus and method of Kawashima et al., since the use thereof would have been routinely practiced by those with ordinary skill in the art to prevent excessive temperature rise in a filter during its regeneration.

Re claims 2 and 8, in the modified apparatus and method of Kawashima et al., when resuming the PM elimination control, the smaller the accumulation amount, the shorter the time for execution of the PM elimination control is set by the apparatus (see for example, Figure 9).

Re claims 5 and 10, in the modified apparatus and method of Kawashima et al., the apparatus discretely increases the temperature of the catalyst after resuming the PM elimination control, as clearly shown in Figure 9.

Re claim 6, the modified apparatus of Kawashima et al.:

- burns unburned fuel collected on the catalyst in an early stage of the increase in the catalyst temperature (lines 52-62 of column 13); and
- further increases the catalyst temperature thereafter, thereby burning particulate matter collected on the catalyst.

### *Response to Arguments*

4. Applicant's arguments with respect to the references applied in the previous Office Action have been fully considered but they are not persuasive.

In response to applicant's argument that Schaller et al. fail to disclose or teach "concentrated intermittent fuel addition that is repeated a predetermined number of times" (page 5 of the Applicant's Amendment), the examiner respectfully disagrees.

Figure 3 in Schaller et al. shows an amount of additional quantity of fuel (QZ) (the vertical axis) as a function of time (the horizontal axis). At time t3 and as indicated on lines 1-3 of column 8, the quantity QZ in Schaller et al., which is shown as the dotted lines, is said to be briefly set to a constant value (emphasis added). This means that there are intervals of time, the quantity QZ in Schaller et al. is a constant value; and there are other intervals of time, the quantity QZ is zero. Moreover, claim 4 in Schaller et al. clearly states that in a third phase (at time t3), a quantity of uncombusted fuel (i.e., additional quantity of fuel) is intermittently set to a constant value (emphasis added). The phase "intermittent" is defined in a dictionary as "*coming and going at intervals: not continuous*". This definition alone emphasizes that in Schaller et al.,

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the quantity QZ is “a concentrated intermittent fuel addition that is repeated a predetermined number of times”.

Therefore, Schaller et al. clearly teach the claimed limitation in dispute.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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*Communication*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Tu M. Nguyen*

TMN

Tu M. Nguyen

December 22, 2006

Primary Examiner

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